

## **Conservation Commission, February 22, 2012**

Town of Scituate

Conservation Commission

Town Hall Selectmen's Hearing Room

Meeting Minutes

February 22, 2012

Meeting was called to order 6:15 at p.m.

Members Present: Mr. Snow, Chairman, Mr. Breitenstein, Mr. Jones, Mr. Greenbaum, Ms. Scott-Pipes.

Also Present: Paul Shea, Agent, Jim O'Connell, Agent, Carol Logue, Secretary, Allan Greenberg, Associate Member

Agenda: Motion to amend the agenda to discuss Partial Certificate of Compliance for Mankewich, 425 Hatherly Road; filing fees for 136 Indian Trail; and Wetland Alterations at Hollett Street Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Request for Determination: Egan, 83 Surfside Road (foundation repair/ footings for removable shower)

John Boyd, Hamilton & Finch was present at the hearing. An Emergency Certificate was issued in January to repair the corner of the foundation. When residing, cinder block foundation was in disrepair.

The other portion of the project is a removable outdoor shower on 2 sonotube footings, with vertical slates, no structure, to be removed at the end of summer. Shower on other side of house is being removed.

Mr. O'Connell: in the event of a hurricane, or nor'easter, remove.

Motion for a negative 2 and 3 determination - "The work described in the Request is within an area subject to protection under the Act, but will not remove, fill, dredge, or alter that area. Therefore, said work does not require the filing of a Notice of Intent." Negative 3: "The work described in the Request is within the Buffer Zone, as defined in the regulations, but will not alter an Area subject to protection under the Act. Therefore, said work does not require the filing of a Notice of Intent, subject to the following conditions (if any)." Ms. Scott-Pipes.

Second Mr. Jones. Motion passed by unanimous vote.

Agents report: Mr. O'Connell: Partial Certificate of Compliance: Mankewich, 425 Hatherly Road. Asked Grady Consulting to refile for the Certificate of Compliance as the site was much different from what was approved. Lawn went 20' into buffer; rain gardens not to size; and wall in back. No real issue, except the rain gardens. Excavated the rain garden, but can't plant until spring. Pushed fill further from house 20' to the sides. Went into the 50' on one side by 12' to 15' with lawn. Passing papers tomorrow. Offered 2 full days of work with his equipment to reconstruct public parking area at Bailey's Causeway. Don't like setting a precedent; not a practice we should accept in every case, but allows closing to go forward. The attorney for the buyer is requiring Mankewich to escrow some money. Mr. Greenberg: hope someone in ConCom makes sure the work gets done, if mitigation is accepted. Mr. O'Connell: Proposed 3' of lawn and post and rail fence on one side, which was ridiculous; lawn extended to 22', instead of the 3' on the approved plan. Mr. Greenbaum: The house was supposed to be oriented differently. Does it say anything about the footprint? Really concerned we don't have all the facts. There should have been no reason to miss like this; it was well documented. Obviously the builder just blew us off. Mr. O'Connell: foundation 2' wider, with a small bump out 5'x10' beyond the approved plan. Claimed he had to excavate more than originally thought. Work at Bailey's Causeway is work for mistakes/intrusion into the 50' buffer at the site. Blatantly went beyond what was approved. Cleaned up some of the tree debris. Mr. Greenbaum: doesn't care if they close tomorrow; boundaries of the lawns and rain gardens have to comply. Mr. Snow: Ask Mankewich and Grady to the next meeting. Want to tell Grady don't send a boilerplate letter. Give a partial, but bring them to the next meeting. These concerns, extra lawn, etc., could be mentioned in the Partial. Mr. Jones: really upset. Globe just had an article where a man had to tear down a million dollar house. Recommend partial on just the building itself. Hope the buyers know what they are getting into.

Discussion: Vickers, 57 Garrison Drive (wall/trees)

Liam Vickers was present. Met out at the site a month ago. Original plan called for 10 trees at the edge of the buffer. When they did the final grading met with the prior agent on site and he agreed with the

wall. With the new grade, swapped the retaining wall for the trees, but no documentation in the file. Checked with old engineer, can't find anything. The interlocking versa lock retaining wall is well established. Ms. Scott-Pipes: But the wall is starting to lean. Retaining wall is between the 50' and 100' buffers. Wall will not fall into the wetlands and has been like that for the last 6 or/ 7 years. Mr. Jones: has a nice view without trees. Wasn't done to save the view. Ms. Scott-Pipes: if you plant the 10 trees, you will be in compliance. Trees won't serve a purpose. Mr. O'Connell: thickly vegetated area, but have heard a lot that the former agent said. Nothing in writing, however, should honor past situations. How about planting 5 trees? Intention of trees did not have anything to do with more lawn. Mr. Greenberg: If there was going to be a significant change, there should have been some conversation; we had many problems with Walnut Tree Hill. Mr. Bjorklund: spent time out at the site; the original trees were meant to help erosion and stabilize the bank; the bank is not there--don't think anything will be gained by planting trees. Mr. Snow: How about 10 shrubs instead of trees; decent for habitat, put in front of the retaining wall. Is there a potential for offsite mitigation? Mr. O'Connell: We need beach grass on town-owned land on Peggotty Beach; contribute that monetary value for beach grass.

Rosemary – beach grass shouldn't be planted before April 15; Plymouth County Conservation District offers good prices and brochure comes out in early March. Mr. O'Connell: usually best to begin planting March 15.

Wetlands Hearing: EBC Bldg Corp./Ellis, 277-283 Chief Justice Cushing Hwy (2 single-families)\*  
Applicant's representative requested a continuance to March 5, 2012. Motion to continue the hearing to March 5, 2012 at 6:30 p.m. Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Wetlands Hearing: Lazaris, Trustee, Lot 1 77 Border Street (new build) (cont.)

Wetlands Hearing: Lazaris, Trustee, Lot 2 77 Border Street (new build) (cont.)

Greg Morse and Adam Brodsky were present at the hearing. New

material just came in yesterday. Bulk of project has already been presented. Answering narrow questions. Mr. Shea: Information was not submitted a week ahead, should not discuss. Not sure about the narrow questions. Question of fees and identifying riverfront resource area. Ms. Scott-Pipes: want time to look at the new plan. There is no activity in the riverfront area, therefore, no additional fees--the project is clearly outside the riverfront area. Atty. Brodsky brought in all the regulations. Mr. Snow: given there are enough issues to discuss, there is no time to look at the new information. There is obviously a discrepancy between you and the agent. Mr. O'Connell: mean high water line is not correct. Tide gage in the river. Atty. Brodsky: Elevation is 4.7, within 1.5" of a neighbor where the Commission reviewed and agreed with the mean high water elevation. Mr. O'Connell: if you are looking for the mean high water elevation, depending on the constriction there could be several feet difference. They will look to see if there is a more relevant tide gage. Atty. Brodsky passed out the regulations. DEP has a guidance document and a question and answer on website. Motion to continue to March 5, 2012 at 6:40 p.m. Ms. Scott-Pipes. Mr. Breitenstein: need to compare plans. Mr. Snow: The Commission should get back to Paul or Jim in the next couple of days with any questions. Second Mr. Breitenstein. Motion passed by unanimous vote.

Wetlands Hearing: Sheehy, Lot 4B (73) Pheasant Hill Drive (new build) Greg Morse was present at the hearing. Filed the stormwater application and clarified a couple of other questions. Entire roof surface will go into 4 separate drywells to mitigate peak rates and promote groundwater recharge with TSS removal. Comply with peak discharge volumes for 2-, 10-, 25-, and 100-year storm events. Infiltrating water for the whole pervious area. Provided recharge is 776 c.f. Erosion control plan and post construction drywells have been submitted. Take a look at limits of clearing. Have edge of lawn, low area, and then tree line. Same limit for the lawn on Lot 4; tree line on Lot 5. No work within the 50' buffer, providing conservation posts, stating that it is a conservation area. Swale runs along the driveway down the property line to the wetlands for stormwater runoff; not significant sediment off driveway. Mr. Jones: Previous NOI on this lot? No, septic outside the 100' buffer zone. There was a previous ANRAD, but had the line

redelineated in June. Motion to close the hearing Ms. Scott-Pipes.  
Second Mr. Jones. Motion passed by unanimous vote.

Wetlands Hearing: McSharry Brothers, Lot 1 – 218 First Parish Road  
(new build)\*

Wetlands Hearing: McSharry Brothers, Lot 2 – 218 First Parish Road  
(new build)

Lenore White, professional wetland scientist, and Brian Taylor were present at the hearing. Abutters notification was submitted. Isolated wetlands were not delineated. Originally this property was going to be 3 lots, but now two. Lot 2 is less complicated and further to the west. A 4-bedroom, serviced by a septic system, driveway, and deck. Grading proposed for the back of house is for a walkout. The construction is 57' from the wetland line, septic system completely outside the 100' buffer zone. Proposing erosion controls.

Lot 1 is the larger of the two parcels and very similar in design: a 4-bedroom dwelling, with garage, septic system and driveway. This is the lot where there are isolated wetlands. Decided not to review, because wasn't sure if there would be 1 or 2 lots. This project includes altering the isolated wetlands. Doesn't qualify under the state regs, only a few inches deep. They are protected under the Scituate bylaw. For mitigation at this point creating about 3,000 sq. ft of wetland, adjacent, and part of the BVW previously delineated. No plan or narrative of how it would be constructed, or how it meets the definition of an isolated wetland. Mitigation is in a 1 : 1 ratio. Ms. Scott-Pipes: #1 concern, someone has to go out there and flag the isolated wetlands; there are major issues with the whole area; the previous applicant was requested to hire a consultant and never submitted the funds. Mr. Breitenstein: don't know if it worth discussing anymore, until the isolated wetland is settled. There is a lot on this plan. Mr. Greenbaum: Was at the site and have trepidations on how wetlands were marked. Those were Gerry Carr's flags. Caution, don't go by those flags. Concerned about replication; our regs call for 2 : 1 mitigation. Be prepared and read the regs. Most of the work is within the buffer zone; you are asking to destroy it. The Commission doesn't allow any work in the 50' buffer zone. Mr. Jones: certainly seems that both the houses, assuming we would accept the delineation, are within the 100'. We have the 100' for a reason. Mr. Breitenstein: 50' is the minimum; we

take the 100' very seriously. In building a dwelling, it will be difficult to maintain the 50' buffer. Should have a restriction on the lot, or concrete bounds stating this is the 50', so when someone purchases the house it is clearly delineated. Need someone to check the BVW and the isolated wetland. Mr. Snow: Needs to be delineated first, and then have someone review. Mr. Greenbaum: edge of proposed mitigation has to be at least 100' from a property line. Need to get Mr. Chessia to allow replication within 100' of his property. Mr. Bjorklund: the intent is if a wetland further encumbers someone's property, but if he already has wetlands, the Commission could waive that requirement under the waiver section. Mr. Greenberg: whoever checks the line, should also check for vernal pools. Gail Lynch, 206 First Parish: a lot of different flags out there, dropped, weathered, and fallen; with precipitation, area gets very wet; there is a brook back there also. Motion to continue the hearing to March 19, 2012 at 6:30 p.m. Ms. Scott-Pipes. Second Mr. Greenbaum. Motion passed by unanimous vote.

Show Cause Hearing: Depperman, 103 Thomas Clapp Road  
Pete Spencer was present at the hearing. Mr. Depperman is out of state. Came before the board and got all the permits. Had two items to file at registry of deeds: Board of Health and Order of Conditions. Scott went by site and there was no DEP sign or erosion controls installed. Mr. Spencer called Scott and Jim. Next day filed Order at Registry. Had to have someone find a key to get the Orders from the house. Mr. Spencer takes the blame. Appreciate the fact they were allowed to continue. Whoever the applicant hires as a contractor, they own the Orders. Mr. Bjorklund: Mr. Spencer is not like some of the contractors that come in time after time. He is very conscientious.

Russ Totman: Was seen working behind "Riddles/Scotties" last week. Need to find a way to make him cooperate. Motion to fine him \$500.00  
Ms. Scott-Pipes. Have sent him numerous letters. Mr. Shea: First send out a letter for a Show Cause Hearing. Mr. Jones: we need a folder for just letters sent to contractors.

Orders of Conditions: Seoane, 8 Border Street (12" drain)  
Motion to condition the project Ms. Scott-Pipes. Second Mr. Jones.  
Motion passed by unanimous vote.

Order of Conditions: Horton, 10 Buttonwood Lane (septic)  
Motion to condition the project Ms. Scott-Pipes. Second Mr. Jones.  
Motion passed by unanimous vote.

Minutes: January 23, 2012

Motion to approve the minutes of January 23, 2012 Ms. Scott-Pipes.  
Second Mr. Jones. Motion passed by unanimous vote.

Agents Report: Mr. O'Connell: Fees – specific to one of our projects.  
House is outside the 100', but required stormwater management plan  
and a driveway through buffer zone. Should we require a filing fee for  
the house? Consensus of the whole Commission was to collect the fee.  
The stormwater permit covers the entire property. Mr. Shea: Had to  
review the application. When the stormwater bylaw was created, never  
put in anything about collecting fees to review these filings. Planning  
Board has a couple of engineers to rely on and has applicant pay for  
the review. There is a process where the Commission can bring in a  
consultant.

Rules and Regulations: Think we should just change the one regulation  
to adopt the new FIRM maps and consider other changes/corrections  
at a later date. TA wants to bring the FIRM map change to town  
meeting. Bring it to Mr. Snow's attention and maybe he could talk to  
her.

## CORRESPONDENCE

February 7, 2011 – February 22, 2012

1. Design Review Committee Agenda
2. Recording of Order of Conditions for 68-2381 – 68 Glades Road (in file)
3. Recording of Extension of OofC for 68-2072 – Lot 3 Glades Road (in file)
4. Fish & Wildlife Service re: change in cooperative agreement number (to Paul)
5. Planning Board – Form A Application – 67 Hatherly Road & Minot Light Ave. – COMMENTS by 2/22/12
6. Coastal Erosion Control Workshops – Providence, RI 4/11; Hyannis,

4/12/12

7. The Beacon

8. DEP – Superseding Determination for 39 Surfside Road - Negative 2 Superseding Determination with a provision: area backfilled with clean sand, that the fence is removed yearly by 11/1 and re-erected 5/15, and fence removed any time a tropical storm or hurricane is forecast. Rosa rugosa or beach grass may be planted in the backfilled area. (in file)

9. Massasoit – Customer Service Series for Municipalities - \$199/pp

10. Notification to Abutters (Town of Scituate) re: Brendan Burke, 330 OOB Road – raze/rebuild

11. Request for CofC & check 68-2329 – 53 Lighthouse Road (in file)

12. Request to allow more time to develop plans for 56 Moorland Road – Mar. 19 (in file)

13. Planning Board re: Stormwater Permit, 8 Border Street with 8 conditions (in file)

14. Recording of CofC for Dickinson - 68-1468 & 68-1631 8 Bassin Lane (in file)

15. Recording of OofC for 68-2384 – Depperman, 103 Thomas Clapp Road (rec. 2/10/1 – in file)

16. Recording of CofC for 68-2184 – Bound Brook Properties L.L.C/ Wilder, 788 Country Way (in file)

17. Report #4 – Ivas Environmental – 68-2122 – The Glenn, 89 Summer Street – (scanned) (in file)

18. Merrill Associates/Columbia Gas answers to questions re: the Jericho Road gas main replacement (in file)

19. Request for CofC for 68-2372 T.K. O'Malley's, 194 Front Street – dock system (in file)

20. 277-283 CJCH/18 OOB R – Buffer zone mitigation report and planting plans (in file)

21. 277-283 CJCH/18 OOB R – Revised site plan, page 2 & 4 – including Conservation Posts (in file)

22. Revised site plan 2/13/12 & Stormwater Permit – Lot 4B Pheasant Hill Drive (in file)

23. Planning Board request for drainage calculation review re: 277-283 Chief Justice Cushing Hwy. (Jim's desk)

24. Report - Ivas Environmental 89 Summer Street (scanned and sent to members) (in file)



25. Planning Board Agenda for February 23, 2012
26. Form A – 277-283 Chief Justice Cushing Hwy/18 OOB Road – COMMENTS no later than 2/22/12
27. 8 Palfrey Street – Broken pile on a licensed dock – needs replacing. Offshore Marine is available for hire
28. Recording of CofC for 68-1261 – 405 Tilden Road (in file)
29. Recording of OofC for 68-2284 – 405 Tilden Road (in file)
30. Recording of CofC for 68-2196 – 7 Wood Island Road (in file)
31. Mankewich re: 425 Hatherly Road – Mitigation work to offset the encroachment of the buffer zone. Excavation services to the Minot Beach Parking Lot.

Meeting adjourned 8:30 p.m.

Respectfully submitted,

Carol Logue, Secretary